

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF A PETITION FOR
AN ADMINISTRATIVE INJUNCTION

INVOLVING	FINAL DECISION AND ORDER
SCOTT M. ANDERSON,	LS9812221RAL
d/b/a ANDERSON'S BARBER SHOP,	
RESPONDENT.	

The State of Wisconsin, Department of Regulation and Licensing, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Board of Nursing.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 18th day of May, 1999.

Marlene A. Cummings, Secretary

Department of Regulation and Licensing

**STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING**

**THE MATTER OF A PETITION FOR AN
ADMINISTRATIVE INJUNCTION INVOLVING**

SCOTT M. ANDERSON,	<u>PROPOSED DECISION</u>
d/b/a/ ANDERSON'S BARBER SHOP	<u>LS9812221RAL</u>
RESPONDENT.	

The parties to this proceeding for the purposes of Wisconsin Statutes, sec. 227.53 are:

*Scott M. Anderson
7807 West Burleigh
Milwaukee, Wisconsin 53222*

*Department of Regulation & Licensing
P.O. Box 8935
Madison, Wisconsin 53708*

*Division of Enforcement
Department of Regulation & Licensing
P.O. Box 8935
Madison, Wisconsin 53708*

This proceeding was commenced by the filing of a Notice of Hearing and Petition for Injunction on December 22, 1998. The respondent did not file an Answer to the Petition for Injunction. A hearing was held in the above-captioned matter on March 16, 1999. Attorney Steven M. Gloe appeared on behalf of the Division of Enforcement, Department of Regulation and Licensing. The respondent, Scott M. Anderson, did not appear at the hearing.

Based upon the record herein, the Administrative Law Judge recommends that the Department of Regulation and Licensing adopt as its final decision in this matter the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. On exact dates unknown, but beginning at least on August 7, 1997 and continuing on through at least October 23, 1998, Scott M. Anderson, 7807 West Burleigh, Milwaukee, Wisconsin, operated a barbering and cosmetology establishment, Anderson's Barber Shop, located at 7807 W. Burleigh, Milwaukee, Wisconsin, without obtaining a barber or cosmetologist establishment license.
2. On exact dates unknown, but beginning at least on April 24, 1998, and continuing on through October 23, 1998, respondent engaged in the practice of barbering and cosmetology at Anderson's Barber Shop, an establishment located at 7807 West Burleigh, Milwaukee, Wisconsin, without obtaining a barber or cosmetologist license.
3. A copy of the Notice of Hearing and the Petition for Injunction was served on the respondent by certified mail on December 22, 1998. Respondent did not file an Answer to the Petition for Injunction and did not appear at the hearing held in this matter.

CONCLUSIONS OF LAW

1. The Department of Regulation and Licensing has jurisdiction in this matter pursuant to s. 440.21, Wis. Stats.
2. By operating a barbering and cosmetology establishment without obtaining a barber or cosmetologist establishment license, as described in Findings of Fact #1 herein, respondent violated s. 454.08 (2) (a), Stats., and s. BC 3.01 (1), Code.
3. By engaging in the practice of barbering and cosmetology without obtaining a barber or cosmetologist license, as described in Findings of Fact #2 herein, respondent violated
s. 454.04 (1)(a), Stats.
4. By failing to file an Answer to the Petition for Injunction and failing to appear at the hearing held in this matter respondent is in default as provided under s. RL 3.13 Wis. Adm. Code.

ORDER

NOW THEREFORE, IT IS ORDERED that Scott M. Anderson be, and hereby is, enjoined from practicing barbering and cosmetology and from operating a barbering and cosmetology establishment unless and until he obtains the appropriate licenses required under Ch. 454, Stats.

This order is effective as of the date it is signed by the Department's designee.

OPINION

The Department of Regulation and Licensing is authorized under sec. 440.21 (2), Stats., to issue administrative injunctions. That provision states that if, after holding a public hearing, the department determines that a person has engaged in a practice or used a title without a credential required under chs. 440 to 480, the department may issue a special order enjoining the person from the continuation of the practice or use of the title.

The issuance of an administrative injunction is appropriate in this case. The evidence establishes that Mr. Anderson operated a barbering and cosmetology establishment, Anderson's Barber Shop, located at 7807 W. Burleigh, Milwaukee, Wisconsin, at least from August 7, 1997 to October 23, 1998, without obtaining a barber or cosmetologist establishment license. He also practiced barbering and cosmetology, at least from April 24, 1998, to October 23, 1998, at Anderson's Barber Shop without obtaining a barber or cosmetologist license.

The purpose of licensing statutes is not to benefit those persons licensed to practice under the statute, but rather to protect the public by the requirement of a license as a condition precedent to practicing in a given profession. Such statutes are grounded in the state's police power to protect the public welfare through safeguarding the life, health, and property of its citizens. Gilbert v. Medical Examining Board, 119 Wis. 2d 168, 188, 349 N.W. 2d 68 (1984).

Pursuant to its authority under s. 454.08 (4), Stats., the Barbering and Cosmetology Examining Board has adopted minimum standards relating to practice of barbering and cosmetology as well as standards concerning the maintenance, equipment, plans and specifications for licensed establishments as they relate to public health and safety (chs. BC 3 and 4 Wis. Adm. Code). These standards, which govern sanitation, safety and maintenance of facilities, equipment and instruments, have been specifically adopted to assure public protection. The public is entitled to receive the protection afforded by the Board's adoption and enforcement of these standards.

Based upon the record herein, the Administrative Law Judge recommends that the Department of Regulation and Licensing adopt as its final decision in this matter, the proposed Findings of Fact, Conclusions of Law and Order as set forth herein.

Dated at Madison, Wisconsin this 5th day of May, 1999.

Respectfully submitted,

Ruby Jefferson-Moore

Administrative Law Judge